

BEFORE THE BOARD OF PSYCHOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.189.301 definitions, 24.189.401) ON PROPOSED AMENDMENT
fee schedule, 24.189.411 use of title, and)
24.189.607 required supervised experience)

TO: All Concerned Persons

1. On November 17, 2006, at 9:00 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Psychologists (board) no later than 5:00 p.m., on November 9, 2006, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibspsy@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of the board's ongoing rule review process, the board determined it is reasonable and necessary to generally update its rules regarding the postdoctoral supervision requirement for psychologist license applicants. The rules as currently written are poorly organized and lack much-needed specificity in delineating the required roles and requirements of both the postdoctoral supervisees and supervisors. Numerous applicants and potential supervisors have expressed confusion in reading and applying the current supervision rules. Therefore, the board is proposing a substantial number of revisions to the supervision rules. Most of the proposed amendments are technical in nature, such as reorganizing and renumbering within rules for easier reference and following amendment of the rules, and replacing archaic word usage with current terminology. In addition, punctuation is being amended throughout to comply with ARM formatting requirements. Accordingly, the board believes that there is reasonable necessity to generally amend the existing postdoctoral supervision rules at this time. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.189.301 DEFINITIONS As used in this chapter, the following definitions apply:

(1) and (2) remain the same.

(3) "Psychological resident" means a supervisee following board approval of a supervised postdoctoral supervision proposal. This title shall be:

(a) used only in conjunction with activities and services of the postdoctoral supervised training to fulfill the experience requirements;

(b) used for a maximum of three years; and

(c) identified for clients, third-party payers, and other entities.

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-1-131, 37-17-101, MCA

REASON: It is reasonably necessary to add the definition of "psychological resident" to the board's definitions rule to delineate the acceptable title used by an individual engaged in a board approved postdoctoral supervision period. This title is widely used in the profession but has never before been defined by the board.

24.189.401 FEE SCHEDULE (1) through (1)(d) remain the same.

(e) Supervision proposal approval

25

(2) remains the same.

AUTH: 37-1-134, 37-17-202, MCA

IMP: 37-1-134, 37-1-141, 37-17-302, MCA

REASON: It is reasonable and necessary to implement a new fee of \$25 to cover the time and effort by the board in reviewing and approving postdoctoral supervision proposals. The board estimates that eight proposals are received and reviewed by the board each year. The board has noted an increase in the necessary review time due in part to an increase in the number of predoctoral internships that are not approved by the American Psychological Association and therefore require more in depth evaluation. In addition, because the board is now requiring specific experience and training for supervisors, the board expects a further increase in the time board members devote to reviewing proposals. Approximately eight applicants for supervision approval will be affected by this new \$25 fee with an estimated annual increase in board revenue of \$200.

24.189.411 USE OF TITLE (1) Persons who are not licensed under Title 37, chapter 17, MCA, may use certain titles in representing themselves to the public, as long as the titles clearly delineate the nature and the level of training. Such persons may use titles such as "psychological trainee," "psychological intern," and "psychological assistant," provided that such persons perform their activities under the direct supervision and responsibility of a licensed psychologist. ~~Nothing in this section shall be construed to apply to any person other than~~ This requirement applies to the following individuals only:

(a) a matriculated graduate ~~student~~ students in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education; or

(b) ~~an individual~~ individuals pursuing postdoctoral training or experience in psychology, including ~~persons~~ those seeking to fulfill the requirements for licensure, ~~under the provisions of this Act~~ but who have not received board approval of the postdoctoral supervision setting.

(2) Individuals whose postdoctoral setting has been approved by the board shall use the title "psychological resident."

(2) remains the same but is renumbered (3).

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-17-104, 37-17-301, MCA

24.189.607 REQUIRED SUPERVISED EXPERIENCE (1) Acceptable supervised experience must involve the practice of psychology and must have been performed competently at a professional level in order to be considered satisfactory in scope and quality.

(a) Experience limited to essentially repetitious and routine tasks at the preprofessional level will not be accepted, e.g., administering and scoring structured tests, as in a practicum course, computing statistics, assisting an instructor in psychology courses, or personal therapy. Such experiences are primarily preparatory to the practice of psychology.

(b) ~~No experience~~ Experience of any kind gained prior to the completion of all requirements for the master's degree in psychology or its equivalent ~~applies to the provisions of this Act~~ shall not be acceptable.

(c) Satisfactory examples of professional experience include tasks ~~which that~~ depend upon the application of skills, concepts, and principles made available during the applicant's formal professional education. ~~Examples of these types of activities and include:~~

(i) administering and interpreting psychological tests; ;

(ii) providing clients or patients assistance in solving their professional or personal problems; ;

(iii) designing original research projects; ;

(iv) analyzing and reporting research data; ; and

(v) teaching a course in psychology.

(2) Required supervised experience shall include two calendar years (a minimum of 3200 hours) of supervised experience.

(a) One year of experience may be predoctoral, occurring after the master's degree and obtained during an internship in an approved training program for the doctoral degree in psychology. The predoctoral internship must be American Psychology Association (APA) approved or substantially equivalent to an APA internship.

(b) One year of experience (a minimum of 1600 hours) must be postdoctoral. Each year of required supervised experience that occurs over more than 12 consecutive months (e.g., due to medical reasons) will be considered for board approval on a case-by-case basis. Postdoctoral supervised experience is calculated

from the time of completion of all requirements for the doctoral degree and may be established by communication from an appropriate institutional official, such as the registrar or the dean of the graduate school.

~~(2) (4) The work 1600 hours of postdoctoral supervision must: described in (1) above should have been done throughout the year~~

(a) consist of a minimum of one hour of face-to-face (personal) supervision per week throughout the period of supervision;

(b) be obtained over a period of no more than three calendar years;

(c) involve the supervisee providing direct clinical services to clients at least 50 percent of the time; and

(d) occur under the face-to-face (personal) supervision of a licensed psychologist with who has:

(i) training and experience at least equivalent to that required by the state of Montana for licensing; ; and

(ii) who is experienced and competent experience and competency in the skills and knowledge in which the applicant is engaged.

(A) Teleconferencing which is two-way, interactive, real time, simultaneous, continuous, and provides for both audio and visual interaction may substitute for face-to-face supervision.

(B) Teleconferencing allowing only oral communication via technology may be allowed upon written request and prior board approval, when unusual circumstances so require. Oral teleconference supervision may constitute no more than 25 percent of the total supervision. Such supervision should have been conducted according to standards at least equivalent to those described in these rules, that the supervision be for at least a minimum of one hour per week throughout the year of experience. Teleconferencing, which allows visual and oral contact via technology, may be allowed upon written request and prior board approval, when unusual circumstances so require.

~~(3) (5) The term "year" shall mean a calendar year, including leaves for vacation with pay during which the individual was engaged in employment on a full-time basis.~~

~~(a) In case of full-time employment, the work schedule in the employing agency, clinic, institution, or organization shall be for a calendar year, meaning that work will be during consecutive months.~~

~~(b) In the case of When the supervisee is employed on a part-time employment basis, credit for such periods of employment shall be calculated by the calendar month or year according to 1-1-301, MCA, in such manner that as follows:~~

~~(a) the number of hours actually worked per week will be divided by 40, and the resulting fraction shall be applied to multiplied by the number of calendar months of employment reported to determine the number of months to be credited to the applicant. Example: applicant employed from July 1, 1970 through October 31, 1971 on an average of 20 hours per week, total period - 16 months at one-half time. Applicant is credited with eight months of experience.~~

~~(4) Qualified professional experience may include one calendar year of supervised experience after the master's degree and must include at least one calendar year post-doctoral. One year may be an internship in an approved training program for the Ph.D. in clinical psychology; the post-doctoral year is figured from~~

~~the time of completion of all requirements for the doctoral degree. Such time of completion may be established by communication from an appropriate institutional official, ordinarily, the registrar or the dean of the graduate school.~~

~~(5) (6) Individual solo private practice shall~~ does not qualify ~~be considered as acceptable professional experience for purposes of the experience requirement. The supervisee must be an employee of the postdoctoral training setting and shall not bill directly for services provided.~~

~~(6) (7) An acceptable post-doctoral postdoctoral training setting shall have two other board approved licensed mental health professionals participating in the provision of training of the candidate, supervisee, and approved by the board, in addition to the licensed psychologist supervisor. The supervisee must be a salaried employee receiving both administrative and clinical supervision from the supervisor. The two additional mental health professionals must be on-site when the supervisor is not on-site.~~

(8) Qualifying supervisors shall provide evidence of:

(a) licensure for a minimum of three years prior to acting as a supervisor; and

(b) previous training and/or experience in supervising.

(9) During the postdoctoral supervision period, the supervisor shall:

(a) not be required to work in the same setting as, nor be an actual employee of the organization or institution where the supervisee works;

(b) be available in a timely manner for supervision in the event of an emergency;

(c) be available to the supervisee's clients for emergency consultation and intervention either:

(i) in person;

(ii) by oral teleconferencing; or

(iii) by oral and visual teleconferencing;

(d) determine the adequacy of the supervisee's preparation for the tasks to be performed;

(e) provide the supervisee with a written document specifying the roles, goals, and objectives for both supervisee and supervisor;

(f) develop, along with the supervisee, a written individualized training plan that:

(i) is consistent with the purpose of the setting;

(ii) meets the needs of the supervisee; and

(iii) serves as the foundation for the supervisor's quarterly written evaluations of the supervisee. Quarterly evaluations must:

(A) address professional conduct, ethical conduct, psychotherapy skills, evaluation skills, and other conduct, knowledge, and skills applicable to the tasks performed and training received, such as teaching, research, and supervision of students;

(B) be reviewed with the supervisee and signed by both the supervisor and supervisee; and

(C) be maintained for a minimum of five years and available upon board request;

(g) interrupt or terminate the supervisee's activities when necessary to ensure adequate development of skills and the protection of the public;

(h) report to the board any breach in ethical, legal, or professional responsibilities of the supervisee; and

(i) be ethically and legally responsible for all of the professional activities of the supervisee.

~~(7) (3) A person who holds a doctorate in psychology and wishes to gain a year of~~ An applicant for post-doctoral postdoctoral supervised experience acceptable to the board, must shall obtain from and submit to the board, a supervision proposal form, provided by the board, The form must indicating indicate an agreement, acceptable to the board, between the holder of the doctorate degree applicant and the supervisor, certifying and certify the existence of a supervisory relationship, as defined in (1), (2), (3), (4) above this rule, for a specified period when the doctorate level person will be working under supervision. The board shall notify the applicant in writing of the acceptability of the supervision proposal. In this case, work considered relevant to subsequent practice of psychology shall be assessed and criticized constructively; in this sense "supervision" is differentiated from consultation.

~~(a) A diary or record of supervisory contacts shall be kept and submitted to the board in support of the experience. The diary shall provide dates of contact and sufficient detail to represent clearly the issues and problems discussed, but no material of a confidential nature shall be included.~~

~~(b) In the event the relationship is terminated, it is the responsibility of the applicant to request the supervisor to inform the board in writing of the effective date of the termination and the reasons for termination as well as indicate the nature and effectiveness of the applicant's response to such supervision.~~

~~(c) A licensed psychologist who is supervising and whose primary responsibilities are in another position, should not supervise more than three supervisees at any one time.~~

~~(d) All psychological reports or other professional opinions rendered by persons engaging in psychological activities without a license under these rules shall be countersigned by the licensed psychologist acting as their supervisor or the legally responsible person designated by the organization in which such work is done.~~

~~(e) The board shall indicate in writing the acceptability of the proposal.~~

~~(f) A licensed psychologist who is supervising shall not be involved in a dual relationship with the supervisee, which would compromise the supervisory relationship, e.g. related by marriage, immediate family, business partnership, etc.~~

(10) During the postdoctoral supervision period, the supervisee shall:

(a) use the title "psychological resident" throughout the period of postdoctoral experience;

(b) maintain a diary or record of supervisory contacts, with all confidential information redacted, and submit it to the board upon completion of the supervision period. The diary must include:

(i) dates of contact;

(ii) sufficient detail to represent clearly the issues and problems discussed;

and

(iii) signatures of both the supervisee and supervisor, to indicate the accuracy of the diary;

(c) sign all psychological reports or other professional opinions rendered by the supervisee using the title "psychological resident" and obtain a countersignature of the supervisor or the legally responsible person designated by the organization where such work is done; and

(d) inform clients orally and in writing of the supervised nature of the work and provide the name, address, and telephone number of the supervisor.

(11) In the event the relationship is terminated before the end of the supervisory period, the supervisor shall inform the board in writing of the following:

(a) the effective date of the termination;

(b) the reasons for the termination; and

(c) the nature and effectiveness of the supervisee's response to the supervision.

(12) A supervisor whose primary responsibilities are in another employment position shall not supervise more than three supervisees at any one time.

(13) A supervisor shall not be involved in a dual relationship with a supervisee, which would compromise the supervisory relationship, e.g., related by marriage, immediate family, business partnership, employee of the supervisee, or former client-professional relationship. If the supervisee pays the supervisor for the postdoctoral supervision, the supervisor shall pay particular attention to the impact of the financial arrangements on the supervisory relationship.

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-17-302, MCA

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibspsy@mt.gov, and must be received no later than 5:00 p.m., November 27, 2006.

6. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.psy.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person

wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibspsy@mt.gov, or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PSYCHOLOGISTS
JAY PALMATIER, Ph.D., CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 16, 2006